

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

TEJ & TJJ LLC,

Petitioner-Appellant,

v.

Black Hawk County Board of Review,

Respondent-Appellee.

ORDER

**Docket No. 11-07-1597
Parcel No. 8913-26-132-017**

On July 3, 2012, the above captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board under Iowa Code sections 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant TEJ & TJJ LLC was represented by owner/member Tyler E. Junker. It requested a written consideration. Assistant County Attorney David J. Mason represented the Black Hawk County Board of Review. The Appeal Board having reviewed the entire record and being fully advised, finds:

Findings of Fact

TEJ & TJJ LLC (TEJ) owner of a residentially classified property located at 116 W Wellington Street, Waterloo, Iowa, appeals from the Black Hawk County Board of Review regarding its 2011 property assessment. The January 1, 2011, assessment is \$54,190, allocated as \$4410 in land value and \$49,780 in improvement value.

The subject property is a two-story frame, single-family residence built in 1905. The improvements include 1248 square feet of above-grade finish, 218 square-feet of attic finish and a full, unfinished basement. Additionally, the property has a 40 square-foot open porch and a 120 square-foot enclosed porch. The improvements are listed in normal condition with 35% physical depreciation.

10% functional obsolescence, and 20% “other” obsolescence. There is a 480 square-foot, detached garage built in 1995. The site is 0.090 acres.

TEJ protested its assessment to the Black Hawk County Board of Review. On the protest it contended there has been a change downward in value since the last assessment under section 441.37(1) and 441.35. Its petition stated: “sale price \$24,900 by government on September 29, 2010.” In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass’n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006)(unpublished). Accordingly, we consider TEJ’s claim as over-assessment under Iowa Code section 441.37(1)(b).

The Board of Review granted the protest, in part, reducing the assessment to \$45,260, allocated as \$4410 to the land and \$40,850 to the improvements.

TEJ then appealed to this Board reasserting its claim of over assessment. It asserts the correct value is \$32,410, allocated as \$4410 in land value and \$28,000 in improvement value.

Tyler Junker submitted a written statement and an appraisal of the subject property. Junker stated that since the purchase of the property he has painted the interior and put in new carpet. Costs were not provided.

The appraisal was completed by Clinton C. Cota of Rally Appraisal, Cedar Falls, Iowa. The appraisal had an effective date of September 22, 2010, and was completed in “as is” condition for the purchase loan. It does not reflect updating to the property since the purchase. Cota determined a value opinion of \$28,000 and developed only the sales comparison approach to value.

The appraisal included four properties, all of which sold as the result of foreclosure. Cota did not make any adjustments for this factor. In arriving at market value, sale prices or property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value under Iowa Code section 441.21(1)(b).

Because Cota did not adjust for this factor, and Cota's appraisal was based on "as is" condition we give it minimal consideration.

Although not adjusted for abnormal sales conditions, given the number of foreclosure properties considered the appraisal does point toward the subject being over-assessed. However, if in fact the property is over-assessed, TEJ has failed to adjust for the abnormal sales to determine the fair market value.

The Board of Review did not submit any evidence.

Based upon the foregoing, we find there is insufficient evidence to support a claim of over-assessment.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or


comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, “other factors” may be considered in arriving at market value. § 441.21(2). The assessed value of the property “shall be one hundred percent of its actual value.” § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). TEJ & TJJ LLC did not provide sufficient evidence of the correct and actual market value of the subject property as of January 1, 2011. Therefore, a preponderance of the evidence does not support the claim that the property is assessed for more than authorized by law.

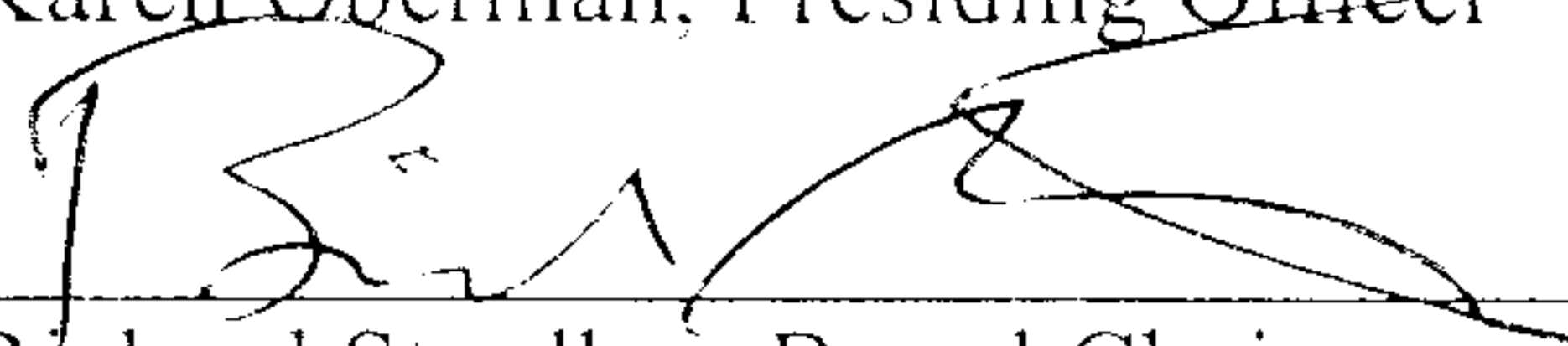
We affirm the assessment of TEJ & TJJ LLC’s property as determined by the Black Hawk County Board of Review.

THE APPEAL BOARD ORDERS the assessment of TEJ & TJJ LLC’s property located at 116 W Wellington Street, Waterloo, Iowa, of \$45,260, as of January 1, 2011, set by Black Hawk County Board of Review, is affirmed.

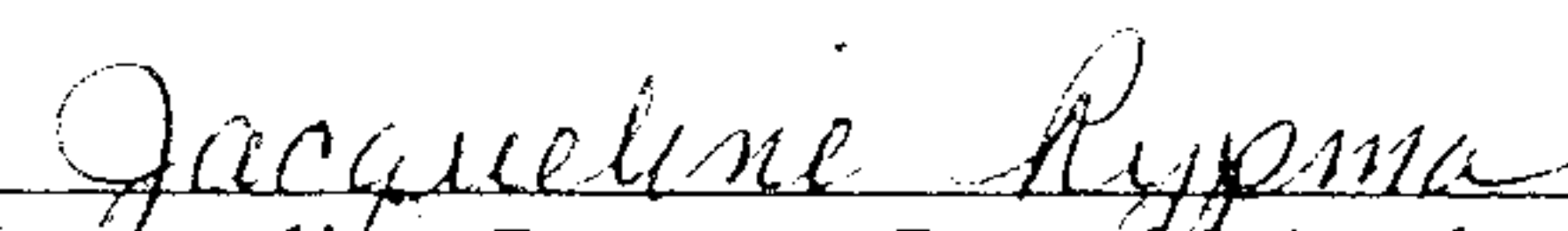
Dated this 30 day of August, 2012.



Karen Oberman, Presiding Officer



Richard Stradley, Board Chair

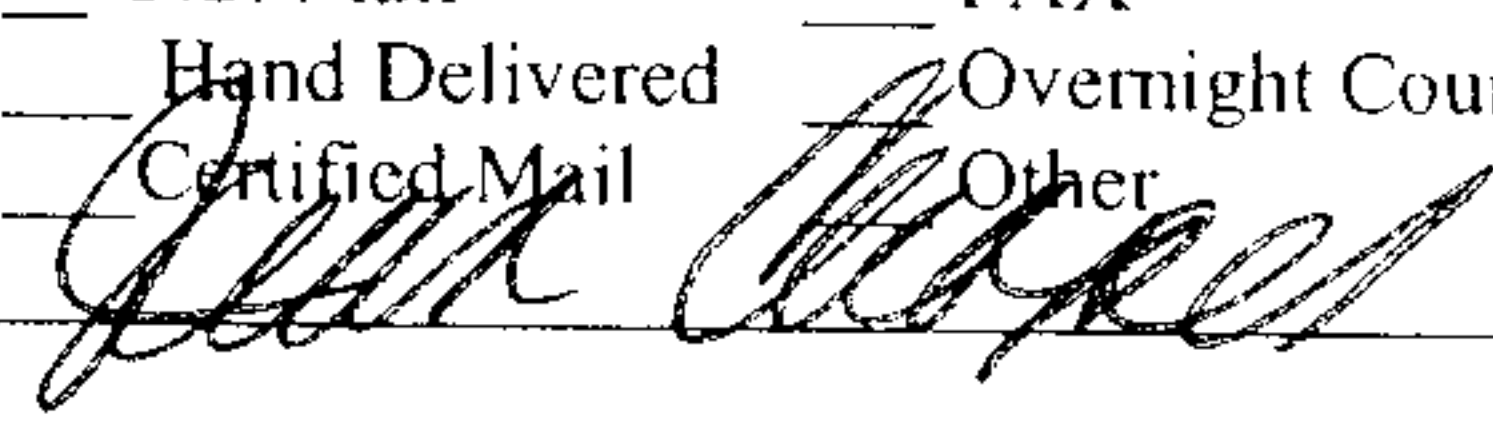


Jacqueline Rypma, Board Member

Cc:

TEJ & TJJ LLC
PO Box 538
Waterloo, Iowa 50704
APPELLANT

David J. Mason
3265 W 4th Street
Waterloo, Iowa 50701
ATTORNEY FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>8-20</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u></u>